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| MICHIGAN DEPARTMENT OF CORRECTIONS<br><b>POLICY DIRECTIVE</b> | EFFECTIVE DATE<br>07/21/08   | NUMBER<br>06.04.100 |
| SUBJECT<br>LIFETIME ELECTRONIC MONITORING OF SEX OFFENDERS    | SUPERSEDES<br>NEW  |                     |
|   | AUTHORITY<br>MCL 750.520b; 750.520c; 750.520n; 791.236;<br>791.285 |                     |
|   | ACA STANDARDS<br>None  |                     |
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**POLICY STATEMENT:**

A sex offender sentenced by the court to lifetime electronic monitoring shall be monitored in accordance with this policy and State law.

**RELATED POLICIES:**

PD 06.03.105 Electronic Monitoring of Offenders

**POLICY:**

GENERAL INFORMATION

- A. For purposes of this policy, “electronic monitoring” means to track and record a person’s movement and location through a global positioning system (GPS) or other device.
- B. Pursuant to state law, if an offender is sentenced for a violation of MCL 750.520b, “Criminal sexual conduct in the first degree”, or MCL 750.520c(1)(a), “Criminal sexual conduct in the second degree”, the sentencing court also must sentence the offender to lifetime electronic monitoring if the offense was committed on or after August 28, 2006; this only applies to a conviction under MCL 750.520c if the offender was 17 years of age or older and the victim was less than 13 years of age at the time of the offense. This mandatory sentencing also applies to a conviction for conspiracy to commit a sexual offense which requires sentencing to lifetime electronic monitoring.
- C. For each offender convicted of a sex offense which requires sentencing to lifetime electronic monitoring, field agents shall include that sentencing requirement as part of the recommended disposition in the pre-sentence investigation report prepared for the offender. If the offender is sentenced to probation and/or jail instead of prison, the supervisor of the field agent who prepared the pre-sentence investigation report shall immediately notify the Electronic Monitoring Center (EMC), FOA, of this requirement. If the offender is sentenced to jail without probation, the EMC shall arrange for installation of the GPS device and initiate the electronic monitoring process. Any unresolved difficulties with installation of the device or initiation of the monitoring process that cannot be resolved through local or regional offices shall be referred to the FOA Deputy Director or designee for direction on how to proceed.
- D. If an offender is sentenced for a conviction of a sex offense requiring sentencing to lifetime electronic monitoring but is not sentenced to lifetime electronic monitoring, or is sentenced to lifetime electronic monitoring for a conviction which does not require monitoring, the Records Administrator, Central Records Section, Operations Division, Correctional Facilities Administration (CFA), or, for offenders sentenced to jail and/or probation only, the appropriate Area Manager shall ensure that a letter is sent to the sentencing court, with a copy to the prosecuting attorney and offender, advising the court of the lifetime electronic monitoring sentencing requirement. If a response is not received within 90 calendar days, the letter shall be resent to the sentencing court. If an appropriately amended Judgment of Sentence is not received, that shall be noted in OMNI case notes (e.g., in CFA, CFA Records Office case notes) and the Litigation Section of the Office of Legal Affairs notified through the appropriate chain of command; the Manager of the Litigation Section shall refer the matter to the Department of

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Attorney General for enforcement of the monitoring requirement.

- E. An offender who is being electronically monitored under this policy and state law who does any of the following is guilty of a felony punishable by imprisonment for not more than two years and/or a fine of not more than \$2,000; violations shall be reported in writing to the Michigan State Police:
  - 1. Intentionally removes, defaces, alters, destroys, or fails to maintain the electronic monitoring device in working order. Any maintenance of the electronic monitoring device required by the Department shall be posted on the Department's website to notify offenders of these requirements; probationers and parolees also shall be notified by the supervising agent or directly by EMC staff.
  - 2. Fails to notify the supervising agent or, if discharged, the EMC that the electronic monitoring device is damaged.
  - 3. Fails to reimburse the Department for the actual cost of the electronic monitoring.
- F. Upon request, a court or a law enforcement agency shall be provided with information as to movement and location of an offender on lifetime electronic monitoring as well as the offender's status toward payment of the cost of electronic monitoring. A request from the court or law enforcement agency for written documentation verifying this information shall be provided as requested; the request shall not be processed as a Freedom of Information Act request unless specifically requested under that Act.
- G. When in conflict with other policy directives, this policy shall control for purposes of electronic monitoring when lifetime electronic monitoring is ordered.

#### ELECTRONIC MONITORING OF PROBATIONER/PAROLEE

- H. Probationers and parolees sentenced to lifetime electronic monitoring shall be placed on GPS monitoring in accordance with PD 06.03.105 "Electronic Monitoring of Offenders". Monitoring and violation reporting shall be in accordance with that policy except as specifically stated in this policy directive or implementing procedures.
- I. When the supervising agent delivers the Order of Probation Discharge or the Parole Board Order of Discharge of Sentence to the probationer or parolee, the agent also shall deliver to the probationer or parolee written notification of the continuing lifetime electronic monitoring requirements, which shall include a copy of this policy directive.

#### ELECTRONIC MONITORING OF DISCHARGED PRISONERS

- J. The appropriate Record Office Supervisor shall ensure that the EMC is notified at least sixty calendar days prior to the discharge date of a prisoner sentenced to lifetime electronic monitoring. The EMC shall arrange for installation of the GPS monitoring device and initiate the electronic monitoring process. Any difficulties with installation of the device or initiation of the monitoring process which cannot be resolved through the EMC or appropriate supervisory staff shall be referred to the CFA or FOA Deputy Director or designees through the appropriate chain of command for direction on how to proceed.
- K. The prisoner shall be placed on GPS monitoring immediately prior to his/her release from incarceration unless otherwise approved by the CFA and FOA Deputy Directors or designees. The appropriate Record Officer Supervisor shall ensure that the prisoner is provided written notification of the lifetime electronic monitoring requirements, which shall include a copy of this policy directive, as part of the offender's discharge processing.

#### REIMBURSEMENT FOR COST OF ELECTRONIC MONITORING

- L. Under state law, offenders sentenced to lifetime electronic monitoring are required to pay to the

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Department the actual cost of the electronic monitoring, regardless of ability to pay. An income review, therefore, is not required to determine the amount a probationer or parolee sentenced to lifetime electronic monitoring is required to pay as a result of this monitoring. In addition, community service cannot be performed as an alternative method of payment for those unable to pay the actual cost of reimbursement.

- M. The FOA Deputy Director shall determine the daily rate required to be paid by offenders who are being electronically monitored under this policy. The rate established shall be posted on the Department's website to notify offenders of the daily rate to be used to calculate the amount of their annual payment; also posted shall be the calendar payment date by which the annual payment is due, how payment is to be remitted, and a contact number if the offender has any questions. The Administrator of the Bureau of Fiscal Management, Operations Support Administration, shall ensure that, at the end of each year, the amount that each offender has not paid toward the annual required reimbursement is reported to the Department of Treasury for collection and to the Michigan State Police; this only applies if the offender is not under Department supervision.
- N. Probationers and parolees also shall be notified by the supervising agent of the rate established pursuant to Paragraph M and how payment is to be remitted while under supervision; payments shall be verified and collected as set forth in PD 06.02.105 "Offender Reimbursement." If all required reimbursement is not paid by the probationer or parolee's discharge from supervision, the Administrator of the Bureau of Fiscal Management shall ensure that the amount owed is reported to the Department of Treasury for collection and to the Michigan State Police.

#### PROCEDURES

- O. The FOA Deputy Director and Wardens shall ensure that operating procedures are developed as necessary to implement requirements set forth in this policy directive; a manual may be issued by the FOA Deputy Director in lieu of operating procedures for this purpose. Operating procedures and/or manuals shall be completed within 60 calendar days after the effective date of this policy directive. This includes ensuring that existing procedures and manuals are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

#### AUDIT ELEMENTS

- P. A Primary Audit Elements List has been developed and is available on the Department's Document Access System to assist the FOA Deputy Director and Wardens with self audit of this policy pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

APPROVED: PLC 06/30/08